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CLERK U S DISTRICT COURT
DISTRICT OF ARIZONA
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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

United States of America *ex rel.* Jacqueline Bloink,

Plaintiff-Relator,

v.

Carondelet Health Network, *et al.*,

Defendants.

CV-11-721-TUC-FRZ

THE UNITED STATES OF AMERICA'S NOTICE OF ELECTION TO INTERVENE

EX PARTE AND UNDER SEAL

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(2) and (4), the United States of America gives notice that it hereby intervenes in this action. Based on its investigation, the United States alleges that from April 7, 2004, through December 31, 2011, defendants knowingly and falsely billed, or caused to be billed, the Medicare Program (42 U.S.C. §§ 1395-1395kkk-1); the Federal Employees Health Benefit Program (5 U.S.C. §§ 8901-8914); and the Arizona Medicaid Program, also known as the Arizona Health Care Cost Containment System (42 U.S.C. §§ 1396-1396w-5) for inpatient rehabilitation facility (IRF) services that were not properly reimbursable under applicable coverage criteria because the patients were not appropriate for inpatient rehabilitation facility services. Contemporaneous with this notice, the parties jointly seek dismissal of this action subject to the terms of a settlement.

Shortly before becoming aware of the United States' investigation, Carondelet Health Network (Carondelet) disclosed to the government some IRF overpayments and tendered a substantial repayment. However, based on its investigation, the United States had concerns about the nature of Carondelet's disclosure, including concerns that the disclosure and the repayment Carondelet tendered were not timely, complete, or adequate. Despite these concerns, the United States considered Carondelet's efforts in this regard as one of several factors in reaching the settlement amount and the proposed resolution of the case.

The United States requests that the relator's complaint, this notice, and the accompanying stipulation for dismissal and proposed order be unsealed. The United States also requests that all other papers on file in this action remain under seal because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended. *See* 31 U.S.C. § 3730(b)(3) (motions to extend the seal and intervention deadline "may be supported by affidavits or other submissions in camera"); *see also, e.g., United States ex rel. O'Keefe v. McDonnell Douglas Corp.*, 902 F. Supp. 189, 192 (E.D. Mo. 1995) (unsealing various documents, including the complaints, but permitting materials that provided some "substantive details regarding the government's methods of investigation" to remain under seal).

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The parties' Stipulation of Dismissal and a proposed Order of Dismissal accompany this notice.

Respectfully submitted this 12th day of August, 2014.

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